

U.S. Serial No. 09/866,000

Filed: May 29, 2001

Scancarella, et al.

Long Wearing Emulsion Makeup Composition for Making up Eyes and Skin

#9
mg
7/23/02



DECLARATION OF JEAN MANELSKI : 37 C.F.R. 1.132

CTO
10/15/02

I, Jean Manelski, co-inventor of the above mentioned application, hereby declare that:

1. I prepared the following compositions:

| | A | B | C | D |
|-----------------------------|-------------------------|-------------|---------------------------|----------------------|
| Water | 86.5 | 86.5 | 86.5 | 86.5 |
| Magnesium aluminum silicate | 1.5 | 1.5 | 1.5 | 1.5 |
| Black iron oxide | 10.0 | 12.0 | 10.0 | ---- |
| Ultramarine blue | 2.0 | ---- | ---- | ---- |
| FD&C Blue #1 | ---- | ---- | 2.0 | 12.0 |
| Properties: | muddy black, blue tinge | muddy black | muddy black, purple tinge | brilliant purple red |

The compositions were prepared by combining the ingredients in water and mixing well. About 0.25 ml. of each composition was swiped down a draw down card and allowed to dry. The color intensity and other properties of the color were noted. A photograph of the draw down card is attached hereto and Exhibit A.

2. CONCLUSION: The results show that compositions containing solely inorganic pigment provide a muddy, non-vibrant color (A and B). Composition C, which contains an appreciable amount of inorganic black iron oxide and a small amount (2% of organic pigment), still exhibit a black, muddy color with a slight purple tinge. Only Composition D, which contains organic pigments only, exhibits brilliant and clear color.

3. Further studies were conducted as set forth below:

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The following compositions were prepared:

| | E | F | G | H |
|-----------------------------------|---------------------|---|------------------------|----------------------------|
| Water | 86.5 | 86.5 | 86.5 | 86.5 |
| Magnesium aluminum silicate | 1.5 | 1.5 | 1.5 | 1.5 |
| Black iron oxide | 10.0 | 2.0 | 1.0 | ---- |
| FD&C Blue #1 | 2.0 | 10.0 | 11.0 | 12.0 |
| Properties: | muddy deep black | very slightly muted blue with purple cast, but still intense | vivid, intense blue | vivid intense deep blue |

The compositions were prepared by combining the ingredients in water and mixing well. About 0.25 ml. of each composition was swiped down a draw down card and allowed to dry. The color intensity and other properties of the color were noted. A photograph of the draw down card is attached hereto and Exhibit B.

CONCLUSION: the above results illustrate that when the organic pigments form the main color component of the composition (as in F, G, and H), the compositions exhibit deep and intense color when compared to compositions containing solely inorganic pigments, or compositions where the inorganic rather than the organic pigments form the main color component of the composition (as in composition E). As can be seen with the draw down of composition E, the organic pigment is not present in a large enough amount to significantly affect the pigmentation from the black iron oxide. Accordingly, the organic pigment present in E does not form the main color component of the composition and the result is a composition that does not exhibit the desired intense, brilliant color.

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3. This declaration is made with the knowledge that willful false statements and the like are punishable by fine or imprisonment or both under 35 USC 1001, and may jeopardize the validity of the above identified patent application or patent issuing therefrom.

6/18/02
Date

Jean Manelski
Jean Manelski